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## ACKNOWLEDGMENT OF COUNSELING ON LEGAL/PROCEDURAL RIGHTS

For use of this form, see AR 635-40; the proponent agency is DCS, G-1.

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### DATA REQUIRED BY THE PRIVACY ACT OF 1974

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**Authority:** 10 USC chapter 61 and 5 USC 301.

**Principal Purpose:** To explain legal and procedural rights and to ensure that the understanding of these rights by the soldier, or the individual authorized to act in the soldier's behalf, is a matter of record.

**Routine Uses:** To the Department of Veterans Affairs to facilitate claims for veteran disability benefits.

**Disclosure:** Disclosure of all data is voluntary; however, failure to provide the data may adversely affect the Soldier's interests in the presentation of his/her case before the Physical Evaluation Board.

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### SECTION I. APPLICABILITY

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This form is to be provided to the soldier (or the individual authorized to act in the soldier's behalf) before the conduct of the formal Physical Evaluation Board

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### SECTION II. INSTRUCTIONS

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The Appointed Legal Counsel is responsible for advising the soldier (or individual authorized to act in the soldier's behalf) of his or her legal and procedural rights before the formal Physical Evaluation Board.

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### SECTION III. LEGAL/PROCEDURAL RIGHTS

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1. I have been informed of the impact of the Privacy Act of 1974 on personal information I am requested to provide during the formal hearing. I understand that --
  - a. The authority for requesting personal data in connection with physical disability evaluation is 10 USC chapter 61 and 5 USC 301.
  - b. The principal purpose for the requested data is to obtain information needed by the Physical Evaluation Board during the formal hearing and to identify both the soldier and witness(es)
  - c. Routine uses of the information include --
    - (1) To evaluate a soldier's physical condition to determine whether the soldier is unfit because of physical disability to perform the duties of the soldier's grade, rank or rating.
    - (2) To determine whether the soldier is entitled to disability benefits if unfit because of physical disability.
    - (3) To provide information after final disposition to the Department of Veterans Affairs (VA) or the Office of Personnel Management (OPM) as required.
    - (4) Information will become part of the soldier's Official Military Personnel File, Health Record, and the Physical Evaluation Board and USAPDA's files of individual case processing.
  - d. Disclosure of information is voluntary. Failure to provide requested information could have an adverse effect on the proper disposition of the case.
2. I understand, that in accordance with 10 USC 1214, I may not be separated or retired for physical disability without a full and fair hearing, if I request a hearing.
3. I understand, that in accordance with 10 USC 1219, I may not be required to sign a statement relating to the origin, incurrence, or aggravation of a disease or injury that I have. Any such statement against my interests, signed by me, is invalid.

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4. I understand I may testify as a witness under oath in my own behalf, in which case, I may be cross-examined as any other witness.
  5. I, or my counsel, may introduce witnesses, depositions, documents, or other evidence in my own behalf, and cross-examine witnesses who have been examined by the PEB, including witnesses who have specific knowledge of my case and whose conversations have been summarized for the record.
  6. I may make unsworn statements, orally or in writing or both, without being subject to cross-examination.
  7. I may remain silent. The choice not to make a statement or answer questions will not be considered adverse to my interests.
  8. I and/or my counsel may object to any action taken or proposed to be taken by the board or to the admission of evidence. The President of the Physical Evaluation Board will rule on the objection.
  9. I and/or my counsel may review all records assembled for use during the hearing, including those furnished by HQ, DA and by other official sources. The assembled records will include memoranda of conversations with individuals who have specific knowledge of my case, to include, but not limited to my chain of command or treating physician.

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10. PRINTED OR TYPED NAME

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| 11. SIGNATURE | 12. DATE |
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